

IDENTIFICATION OF TRADE EXPANSION PRIORITIES PURSUANT TO EXECUTIVE ORDER 12901

October 1, 1997

This report is submitted pursuant to Executive Order No. 12901 of March 3, 1994, as extended by Executive Order No. 12973 of September 27, 1995, regarding the "Super 301" annual review. Under the Executive Order the United States Trade Representative (USTR) is required, by September 30, 1997, to "review United States trade expansion priorities and identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent."

Keeping America growing and creating good high-wage jobs by tearing down foreign barriers to American goods and services continues to be President Clinton's top trade expansion priority. For this reason the President has asked Congress to renew fast track procedures to negotiate tough new trade agreements that break down trade barriers and unfair trade restrictions in key areas, such as in agriculture, information technology, telecommunications, automobiles, medical equipment, environmental technology and services, and the creative power of our entertainment and software industries. Fast track would enable the United States to complete the built-in agenda of the World Trade Organization (WTO) by concluding major trade negotiations that were deferred at the end of the Uruguay Round and by participating in negotiations mandated by the Uruguay Round agreements in areas ranging from rules of origin to services. Fast track would enable the United States to pursue market-opening initiatives in sectors where the United States either leads the world or is a powerful competitor, and where extraordinary potential for growth exists. Fast track is also essential if the United States is to negotiate more comprehensive market access agreements with individual countries, as well as on a regional basis.

The Clinton Administration intends to concentrate on the fastest growing markets in the world in Latin America and Asia. These markets are growing three times faster than our own. Without fast track, our competitors will continue to negotiate trade agreements that benefit their products at the expense of our own. Fast track is necessary, not only to promote our own economic well-being, but to enable us to continue to play a leadership role in advancing the cause of freedom and prosperity in the world.

The Administration is addressing the most significant foreign trade barriers through an ongoing strategy of vigorous monitoring and enforcement of trade agreements, strategic application of U.S. trade laws, active use of the dispute settlement provisions of our trade agreements, and continued engagement in multilateral, sectoral, regional and bilateral negotiations. Through this strategy the Administration has used the trade law tools and dispute settlement mechanisms at its disposal on more than 70 occasions so far to enforce U.S. rights. As a result of the 1997 review of priorities, the Administration has identified one priority foreign country practice and will proceed under WTO dispute settlement procedures in four cases.

Priority Foreign Country Practice

- **Korea - barriers to auto imports.** Specific Korean practices of concern include an array of cumulative tariff and tax disincentives that disproportionately affect imports; onerous and costly auto standards and certification procedures; auto financing restrictions; and a climate of bias against imported vehicles that Korean officials have not effectively addressed. While some of these barriers were addressed in the 1995 bilateral agreement, implementation of that agreement has been disappointing, especially as new practices have been introduced that undermine the 1995 agreement. Meanwhile, Korean auto manufacturers are expanding domestic capacity, which is forecast to rise from 2.8 to over 5 million units by the year 2000.

Although some progress was made during recent bilateral negotiations to improve market access in Korea for foreign automobiles, Korea was not prepared to undertake the reforms which are necessary for real opening of its autos market. In light of the foregoing, the USTR has decided to identify Korea's barriers to imported automobiles as a priority foreign country practice under the Executive Order and will initiate a section 301 investigation of Korea's practices. The United States continues to hope that it can reach an agreement with Korea that will effectively address U.S. concerns.

Strategic Enforcement

Enforcing our trade agreements and our trade laws is among the Administration's top trade expansion priorities. A critical part of our job is what happens *after* an agreement is signed. The Administration's trade policy recognizes that the best way to build confidence in trade agreements is to enforce them. Vigorous enforcement is critical to ensuring good agreements.

The Administration has assigned top priority to monitoring implementation of its trade agreements, especially the WTO agreements and NAFTA to ensure that signatories live up to their commitments and comply with the rules. In the course of these monitoring efforts, the Office of the United States Trade Representative, in cooperation with the Departments of Commerce and Agriculture, has focused in particular on foreign practices that could pose serious problems to the international trading system if they proliferate in many markets. Therefore, the Administration has adopted a strategic enforcement plan -- aimed not only at challenging existing barriers but also at preventing the future adoption of similar barriers around the world.

The Administration will continue to make vigorous use of the dispute settlement provisions in trade agreements to ensure compliance with the terms of those agreements. Since the inception of the WTO the United States has invoked the WTO dispute settlement procedures far more than any other member. The new WTO dispute settlement procedures have already yielded positive results -- both in terms of reduced barriers and increased export opportunities.

Efforts to enforce the WTO agreements include not only dispute settlement, but also making use of the various oversight committees of the WTO that ensure implementation of WTO agreements, especially those agreements that address the mechanics of getting goods to the marketplace: rules on technical barriers to trade (standards, certification, testing requirements); sanitary and phytosanitary measures; import licensing requirements; customs valuation procedures; rules of origin; and preshipment inspection procedures.

New cases to be launched

As a result of this year's review of its trade expansion priorities, and its monitoring of compliance with U.S. trade agreements, the Administration will take the following actions to enforce U.S. rights under those agreements, with heavy emphasis on challenging foreign government actions that appear to circumvent the WTO rules on export subsidies.

- **Japan - Market Access Barriers to Fruit.** USTR will initiate a section 301 investigation and, in that context, request the establishment of a WTO panel to challenge the Japanese government requirement of separate efficacy testing of certain quarantine treatments for each variety of imported fruit, even where the same treatment has been accepted by Japan as effective for another variety. Although the fruit of immediate export concern is apples, Japan's requirement operates as a significant import barrier to nectarines, cherries, and other fruits that are of export interest to the United States. The United States and Japan have already completed consultations on this matter pursuant to WTO dispute settlement procedures, so the United States will proceed directly to request a panel.
- **Canada - Export Subsidies and Import Quotas on Dairy Products.** USTR will invoke WTO dispute settlement procedures in the context of a section 301 investigation to challenge practices that subsidize exports of dairy products from Canada, and Canadian implementation of its import quotas on milk. The U.S. dairy industry has petitioned USTR to initiate this investigation on the grounds that both of these practices are inconsistent with Canada's WTO obligations and adversely affect U.S. exports.
- **EU - Circumvention of Export Subsidy Commitments on Dairy Products.** USTR also will invoke WTO dispute settlement procedures in the context of a section 301 investigation to challenge practices by the European Union (EU) that circumvent the EU's commitments under the WTO to limit subsidized exports of processed cheese and adversely affect U.S. exports to third markets. The EU is counting these exports against its limits on powdered milk and butterfat to avoid the limits on subsidies to cheese. USTR will also closely monitor EU compliance with its WTO agricultural subsidy commitments on all other agricultural products.
- **Australia - Export Subsidies on Automotive Leather.** Following bilateral and multilateral consultations, Australia agreed to eliminate export subsidies for leather used in automobiles. However, Australia's subsequent package of assistance for its industry (comprised of a sizeable loan and grant), has raised similar concerns regarding consistency with WTO subsidies rules. While some progress has been made in recent months, these concerns have not yet been adequately addressed. Thus, USTR will invoke WTO dispute settlement procedures, but remains hopeful that a solution satisfactory to both countries can be reached during consultations.

Recent enforcement actions

During the past year, USTR has invoked WTO dispute settlement procedures to challenge a wide variety of foreign government practices, covered by the *broad range* of agreements administered by the WTO, seeking to enforce the rules on tariffs, agriculture, services, intellectual property rights, antidumping measures, and sanitary and phytosanitary measures. Those complaints include challenges of:

- **Argentina's** import duties on footwear, textiles, and apparel that exceed the maximum to which Argentina is committed under WTO tariff rules;
- licensing requirements in **Belgium** that discriminate against U.S. suppliers of commercial telephone directory services;
- **Brazilian** government measures that give certain benefits to manufacturers of motor vehicles and parts, conditioned on compliance with average domestic content requirements, trade-balancing and local content requirements with regard to inputs;
- the failure of **Denmark** to provide adequate measures to enforce intellectual property rights;
- reclassification by the **European Union, the United Kingdom, and Ireland** of certain computers and computer-related equipment to different tariff categories with higher tariff rates;
- import restrictions on more than 2700 agricultural, textile and industrial products imposed by **India** for which India can no longer claim a justification for balance-of-payments reasons;
- **Indonesia's** programs granting preferential tax and tariff benefits to producers of automobiles based on the percentage of local (Indonesian) content of the finished automobile;
- **Ireland's** failure to expeditiously bring its copyright laws into compliance with the WTO agreement on intellectual property rights;
- **Japan's** barriers to market access for photographic film and paper, and barriers to distribution and retail services in Japan;
- **Korea's** taxes on Western-style distilled spirits that are higher than those assessed on the traditional Korean-style spirit *soju*;
- an antidumping action by **Mexico** of high-fructose corn syrup imports from the United States that does not conform to WTO procedures;
- a licensing system in **the Philippines** that discriminates against U.S. exports of pork and poultry; and
- the failure of **Sweden** to provide adequate measures to enforce intellectual property rights.

In addition to using dispute settlement procedures strategically, the Administration has continued to use the leverage of U.S. trade laws to obtain market access for U.S. goods and services and to encourage other countries to ensure adequate protection of intellectual property rights:

- **Japan - port practices.** Restrictive practices in Japanese ports have caused serious difficulties for U.S. shipping companies for many years. After initial consultations with Japan failed to resolve these problems, on September 4, 1997, the Federal Maritime Commission imposed sanctions of \$100,000 per voyage on container vessels owned or operated by Japanese companies entering the United States. Consultations to remove the restrictive practices which impede open and efficient business operations of our carriers continue.
- **Argentina - patent protection.** On January 15, 1997, the Administration decided to withdraw 50 percent of Argentina's tariff benefits under the Generalized System of Preferences as a result of its continued delay in providing adequate patent legislation, particularly for pharmaceutical products.
- **Bulgaria - intellectual property protection.** The "Special 301" provisions of U.S. trade law have been used to obtain progress in improving the legislative framework for protecting intellectual property rights and enforcing those rights in Bulgaria. Just prior to the April 1997 Special 301 announcement, Bulgaria adopted amendments to expand the scope of protection for computer software.
- **Korea - telecommunications.** In 1996, Korea was identified as a Priority Foreign Country under the Telecommunications Trade Act of 1988. Year-long negotiations bore fruit in July 1997, with commitments by Korea to ensure that U.S. telecommunications equipment suppliers would be treated fairly in areas including procurement, certification, type approval, protection of intellectual property and technology transfer.
- **Mexico - telecommunications.** In the 1996 review under the Telecommunications Trade Act of 1988, USTR cited Mexico for not fulfilling its NAFTA obligation to accept other parties' laboratory or test facility test data relating to product safety in certifying telecommunications equipment for safe use. An agreement reached in April 1997 established procedures to resolve this issue, which will further facilitate the export of U.S. telecommunications products to Mexico.
- **Honduras - piracy.** In response to the failure of Honduras to address effectively the unauthorized broadcasting of pirated U.S. videos and the rebroadcasting of U.S. satellite-carried programming, the Administration is taking steps to withdraw some of the tariff benefits accorded Honduras under the Generalized System of Preferences and Caribbean Basin Initiative programs.

Bilateral Market Access Issues

Through bilateral negotiations as well as through enforcement actions, the Administration continues to monitor progress made toward increasing market access for U.S. exports of goods and services to key markets.

Japan

A top priority of the Administration has been to increase access to the Japanese market. The Administration has negotiated 31 market-opening agreements with Japan since 1993. The most recent of these was concluded on September 30, 1997, when agreement was reached to extend and improve the bilateral agreement on procurement by Nippon Telegraph and Telephone Company, commonly referred to as the NTT agreement. This agreement will provide U.S. telecommunications suppliers with improved access to NTT's \$13 billion market.

Bilateral agreements, combined with enforcement of U.S. trade laws, use of the WTO dispute settlement process, and regional and multilateral initiatives, have helped to increase significantly U.S. exports to Japan. U.S. exports to Japan increased 41 percent from 1993 to 1996.

Nevertheless, the Administration is increasingly concerned that Japan's progress in opening its market has slowed. Market access problems persist and U.S. companies in a wide range of sectors continue to face serious impediments that hinder their ability to compete in the Japanese market. These barriers include a closed distribution system, nontransparent regulations, discriminatory procurement policies, and restrictive business practices.

Meanwhile, the Japanese economy is weaker than expected and Japan's current account surplus is increasing, reaching 2.6 percent of GDP in the second quarter of this year. Prime Minister Hashimoto has publicly articulated the objective of "promoting strong, domestic demand-led growth in Japan and avoiding a significant increase in the external surplus." It is essential that Japan take seriously its responsibilities to generate domestic demand-led growth and open its markets to competitive goods and services from the United States and other countries.

Our objectives correspond closely with key elements of the Japanese Government's economic agenda. Resolution of such issues as reform of Japan's port practices, significant opening of Japan's civil aviation market, and improved market access for U.S. autos and auto parts are early tests of the Japanese Government's commitment to deregulation and market opening. The deregulatory measures implemented by the Government of Japan in the sectors included in the Enhanced Deregulation Initiative agreed to by President Clinton and Prime Minister Hashimoto at the G-8 Summit last June -- including telecommunications, housing, pharmaceuticals/medical technology, and financial services -- will also serve as early indications of the seriousness of Japan's commitment to deregulation.

- **Japan - Market Access for Autos and Auto Parts.** The United States and Japan concluded an agreement in 1995 on the full range of market access barriers facing sales of autos and auto parts in Japan and to Japanese companies outside Japan. Noteworthy progress was made during the first year of the agreement, with sales of North American-made Big Three vehicles up 34 percent last year and sales of U.S.-made auto parts up 20 percent in 1996. However, during the first six months of 1997, sales of North American-made Big Three vehicles have declined 17 percent over 1996 levels. Moreover, although U.S. auto parts exports increased 14 percent during the first six months of 1997, foreign access to this market remains limited. In light of these trends, increased

focus on implementation is necessary. Of particular importance is improved access of U.S. and other competitive foreign firms to Japan's automotive distribution system, including to new and existing dealerships. With respect to auto parts, continued progress will depend on further meaningful deregulation of the replacement market. The United States and Japan will meet in early October 1997 to assess progress based on the quantitative and qualitative indicators in the agreement and to discuss concrete actions for improving market access in this important sector.

- **Japan - Market Access for Flat Glass.** Implementation of the 1995 U.S.-Japan Flat Glass Agreement proceeded well in the first year, but early progress has not been sustained. While a major objective of the agreement was to provide foreign companies access to distributors controlled by the three major Japanese glass companies, the increase in volume of foreign glass within the Japanese glass distribution system continues to be very limited, and major Japanese distributors are not carrying foreign glass in any meaningful quantities. There also has been virtually no increase in the overall use of insulated glass and a decline in the use of safety glass, even though the Agreement provided that Japan was to promote actively the use of both types of glass. Among the promotion measures Japan agreed to undertake was the issuance of new standards to promote the use of insulated glass in residential and commercial construction. The United States and Japan will hold consultations in late October to discuss our market access concerns. The United States will continue to press Japan to take actions to ensure that genuine market access is achieved under the agreement.
- **Japan - Market Access for Paper and Paper Products:** Despite continued U.S. efforts in the past year, structural barriers continue to impede U.S. industry's access to Japan's paper market. In the first six months of 1997, Japan's paper and paperboard imports fell by more than 20 percent and import penetration declined further to 4.3 percent. The United States seeks agreement with Japan on a joint work program designed to provide substantially increased market access for foreign paper and paperboard products. Such a program would lead to a reduction in structural barriers and exclusionary business practices and will result in meaningful access to distribution channels and end users.

China

The Administration is actively pursuing a broad range of market opening initiatives with China. Through active leadership in multilateral WTO accession talks and pursuit of a full bilateral agenda, we are seeking the elimination of China's multiple and overlapping barriers to U.S. exports of industrial goods, agricultural products and U.S. services. Despite China's actions to liberalize its economy, many aspects of its economic and legal regime are inconsistent with international norms. While our large and growing trade deficit with China is the result of many factors, China's trade and economic policies are a significant contributor to that deficit. Opening China's market and bringing China's policies into conformity with international norms are the Administration's key objectives in the trade area and the best means to address the trade deficit.

Given the size and potential of China's market and the nature of China's trade regime, negotiating the terms of China's membership in the WTO will continue to be a major focus of U.S. efforts to open China's markets. The WTO accession negotiations represent an important opportunity to

work with our trading partners and with the Chinese government to develop an accession package that opens markets and commits China to create an environment conducive to international trade, requiring compliance with WTO rules and internationally accepted trade norms of transparency, predictability and the rule of law.

The United States supports China's accession to the WTO on the basis of commercially meaningful commitments that provide market access for U.S. goods, agriculture and services. China has, in the context of the Asia Pacific Economic Cooperation Forum (APEC), taken some recent steps towards liberalizing its trade regime. Effective October 1, 1997, China will cut its average tariffs to 17 percent as a step towards meeting its APEC commitment of a 15 percent average tariff by the year 2000. This is a welcome step, but more is needed in the context of WTO accession. The Administration is, for example, committed to eliminating quotas, licensing requirements and other barriers affecting U.S. exports and investment in the WTO Accession.

The United States is pursuing a program of vigorously monitoring compliance with existing agreements and addressing new market access barriers. During the Clinton Administration, we have reached important agreements on intellectual property rights (IPR) protection, textiles and market access. Concluding these agreements, however, was only a first step. We have continually worked with China to ensure that implementation problems are addressed.

- **China - IPR Enforcement.** We have seen progress through closure of 58 pirate compact disc production lines and the establishment of an infrastructure for enforcement of IPRs. Continuing problems exist regarding computer software piracy and trademark counterfeiting, however, since Chinese authorities often fail to impose penalties sufficient to deter illegal activities. U.S. negotiators are continuing to work with Chinese authorities to improve compliance with our IPR agreements.
- **China - Sanitary and Phytosanitary Measures.** Progress has been achieved in opening China's market to U.S. agriculture for products such as live cattle, bovine embryos, cherries and apples from Washington, and most recently grapes from California. Serious problems still remain. We have, for example, serious objections to China's unjustified sanitary and phytosanitary (SPS) restrictions. China bans imports of U.S. oranges, lemons, grapefruit, plums and Pacific Northwest (PNW) wheat based on SPS concerns. The United States believes that China's concerns lack a scientific basis and are unjustified. The United States exports these products globally. U.S. negotiators are now working to reach agreement with China's experts on the conditions for importation of U.S. citrus, PNW wheat and plums.
- **China - Meat Imports.** While China has begun a one-year experiment to allow U.S. meat imports for general consumption, China has only certified a handful of U.S. beef, pork and poultry processing plants. Given the continued application of high tariffs, however, certification of plants has yet to result in increased market access for our meat exports. These are products in which the United States is highly competitive and enjoys a large global trade.

- **China - Financial Information Providers.** We are nearing an interim solution of a longstanding problem concerning registration of foreign financial information providers like Dow Jones and Reuters. China's plan to authorize China's main financial data provider and competitor to U.S. companies, Xinhua, to regulate foreign economic information providers was challenged by the United States from its inception. This interim solution will permit U.S. firms to continue their operations in China while the United States seek more comprehensive commitments from China on market access and national treatment for financial service providers and online data processing in the negotiations on China's accession to the WTO.
- **China - Insurance Providers.** Foreign insurers' access to the Chinese market is severely restricted. U.S. insurers must first establish a representative office for two years before applying for a license. If China grants the company a license, numerous non-prudential restrictions apply on doing business, including restrictions on the form of investment, scope of business lines, and geographic location. We are seeking elimination of these non-prudential restrictions.

Korea

The Administration is focused on eliminating barriers to entry and distribution of U.S. products in Korea -- the United States' fifth largest export market overall, and fourth largest market for agricultural and food products. This year, the Administration made solid progress toward opening the Korean market through the use of U.S. trade laws and WTO dispute settlement procedures, negotiation and enforcement of bilateral trade agreements, and close coordination with other countries on U.S. trade initiatives regarding Korea, particularly in the OECD and the WTO. Specifically, the United States negotiated a bilateral settlement addressing restrictive Korean telecommunications practices; reached agreement on an IPR action plan; and used WTO procedures to improve Korean market access for U.S. food and agricultural products.

The Administration is committed to continuing its varied and comprehensive efforts to tackle commercial barriers in what U.S. industry still describes as one of the toughest markets in the world for doing business. Korea must begin to take actions and accept the responsibilities commensurate with its new international position as a developed nation. Our priority will be on achieving systemic changes to trade-restricting procedures and rules in Korea, including those affecting market access for automotive products, cosmetics, and food and agricultural goods.

- **Korea - Impediments to Entry and Distribution of Cosmetics.** The Korean government uses measures that restrict the entry and distribution of cosmetics including: restrictions on sales promotions (premiums), including changes to the valuation methodology; delegation of authority to a Korean industry association to screen advertising and information brochures prior to use; mandatory provision of proprietary information on imports to Korean competitors; redundant testing; unreasonable prior-approval requirements on cosmetic tester labels; and burdensome import authorization and tracking requirements. After bilateral talks with U.S. officials, Korea stated its intention to change some of these measures, but the Korean government still has not fully addressed U.S. concerns, including those relating to implementation of relevant provisions in international agreements. The Administration will continue to pursue unimpeded trade in cosmetics with Korea over the coming year and will review the situation again in January 1998.

- **Korea - Import Clearance Procedures.** After WTO dispute settlement consultations with Korea on its long, burdensome, and non-science-based import clearance procedures, the Korean government made changes, including expediting clearance for fresh fruits and vegetables; instituting a new sampling, testing, and inspection regime; eliminating some phytosanitary requirements; and starting the process of updating Korean Food Additives Code standards. However, Korean port inspectors have failed to implement changes to which the Korean government has committed, including the elimination of requirements for proprietary information (on manufacturing process and ingredient listing by percentage) and for sorting of produce. Also, some of the changes Korean officials are implementing do not adequately address U.S. concerns. The United States will raise this issue at the October meeting of the WTO SPS Committee and has proposed consultations on the Korean Food Additives Code. The United States will take further action under WTO dispute settlement procedures if its concerns are not addressed fully.
- **Korea -- Steel Subsidies.** The United States is concerned that the Korean government may have provided large subsidies for the establishment and expansion of Hanbo Iron and Steel, and directed the banking industry to continue to extend credits beyond what is financially prudent. U.S. industry is concerned that such measures may be subsidies that are creating unfair competition through price undercutting and displaced U.S. exports to Korea and to third country markets. We have sought further information from the Korea government, both bilaterally and in the WTO Subsidies Committee, and will examine Korea's practices in light of its WTO obligations.

Problems Requiring Special Attention

As traditional barriers to market access have been reduced at the border, the increase in the application of government measures under the guise of technical requirements has increased. These are problems that are being given special attention by the Administration, and that may warrant enforcement action in the future if they are not resolved satisfactorily.

Sanitary and phytosanitary measures

Numerous U.S. agricultural exports have been denied import approval or have faced costly import quarantine requirements due to sanitary and phytosanitary (SPS) barriers to trade that lack a scientific basis and appear to discriminate arbitrarily or unjustifiably against U.S. agricultural exports. The Administration has implemented an aggressive agenda to address unjustified SPS barriers, including high-level technical talks with our trading partners, raising these issues in the WTO SPS Committee to apply multilateral pressure, and resorting to WTO dispute settlement procedures where necessary.

As a result of intense efforts in the past year, the Administration has resolved technical issues bilaterally to permit exports of tomatoes to Japan, table grapes to China, lemons, table grapes, kiwis, oranges and grapefruit to Chile, sweet cherries to Mexico, rough rice to Honduras, live swine to Argentina and Peru, and live cattle to Peru.

The Administration will continue to press our trading partners to remove unjustified SPS barriers facing U.S. agricultural exports, including:

- **EU - Specified Risk Material (SRM) Ban and Cosmetics Directive.** Two recent directives approved by the European Commission prohibiting the sale in the EU of cosmetic products containing tallow and its derivatives, and governing the production of certain materials, due to concerns regarding the transmission of Bovine Spongiform Encephalopathy (BSE), raise concerns with respect to the EU's WTO obligations. The directives fail to recognize that BSE is not known to occur in the United States and that the United States maintains an aggressive surveillance program for BSE that exceeds international standards. The EU has failed to provide a scientific basis for these requirements, and both directives are expected to have severe negative effects on U.S. exports of pharmaceutical, cosmetic and tallow products; and the potential impact on the international availability of essential pharmaceutical products also raises serious public health concerns.
- **France - Pet Food Imports.** In September 1996, France adopted new requirements for pet food production, restricting the use of certain animal products or proteins and prohibiting the use of certain material. The regulation requires that manufacturers exclude materials from the rendering process that are commonly considered safe by renderers and this has effectively stopped all U.S. pet food exports to France. France has not demonstrated the scientific principle underlying the restriction of non-mammalian material as a protective measure against any risk factor. This issue was raised by the United States at the July 1997 meeting of the WTO SPS Committee.
- **Australia - Pest Risk Analyses.** For a number of years, and in a variety of fora, the United States has requested entry into Australia's market for stone fruit, shelled almonds, Florida citrus fruit and California grapes. The United States has submitted several pest lists to enable Australia to complete its WTO-required risk assessments. To date, Australia has provided no scientific basis for its prohibitions on U.S. exports of these products, nor has it provided pest risk analyses. The delays experienced on these issues have seriously hampered the approval process for U.S. exports of these commodities.

Technical Barriers to Trade.

Technical barriers to trade are of particular concern in our important relationship with the EU. In successive meetings of the WTO Committee on Standards, and other WTO bodies, the United States and other nations have flagged concerns that standards, certification, and testing requirements in the EU can sometimes pose serious technical barriers to trade. The U.S.-EU trade and investment relationship is the largest and most complex in the world. Sophisticated business interactions across the Atlantic are affected to a significant degree by standards, technical regulations and conformity assessment procedures. While the recent U.S.-EU mutual recognition agreement on conformity assessment, covering six industrial sectors, should help reduce standards-related barriers, U.S. companies continue to be concerned about certain aspects of EU standards-related practices that could inhibit U.S. exports.

- **EU -Design Restrictive Standards.** U.S. firms continue to encounter difficulty in obtaining market access for certain products in Europe due to design-restrictive standards that may have no bearing on the safety and performance of the product. While U.S. companies with U.S. Government assistance may achieve some success in addressing problems in individual national

markets, market access becomes even more difficult if a European regional standards body decides to develop a European-wide standard. The initiation of work on a regional standard results in a standstill on related work in individual member States and thus can delay or, if unnecessarily restrictive standards are finally adopted, prevent improved access to EU markets. The United States continues to raise its concerns, both bilaterally and in the WTO, with the standards making process in the EU and design-restrictive standards and has in particular sought to address the problems encountered by a U.S. manufacturer of gas connectors.

- **EU Ecolabeling Directive.** The EU Ecolabeling Directive sets forth a scheme whereby EU Member States will grant voluntary environmental labels based on criteria approved by the European Commission for products in specific sectors. The United States affirms its support for the concept of ecolabeling and has previously expressed appreciation for the EU's attempts to address problems raised by the United States regarding its ecolabeling program. However, while improvements in the transparency of procedures and opportunity for foreign participation in the EU's ecolabeling program have been reported, concern remains that the EU ecolabeling program favors European industry, thus leading to trade concerns.
- **EU Units of Measurement Directive.** The EU plans to implement a directive requiring that after December 31, 1999, the only indications of measurement that can be used on product labels will be metric units. Currently, labels may include other units (e.g., inches, pounds) in addition to metric units. Such a step is unnecessary and burdensome, and will affect many U.S. companies, particularly in those industries where packaging and labeling are key aspects of placing a product on the market (e.g., food products, consumer goods and cosmetics).

Other Bilateral Issues

- **Argentina - Footwear Import Restrictions.** After the United States initiated WTO panel proceedings to determine whether Argentine import duties on textiles, apparel and footwear are within Argentina's maximum permissible rate, Argentina revoked its challenged duties on footwear and replaced them with similar duties in the guise of an emergency import relief measure. On September 1, 1997, Argentina notified the WTO that this so-called safeguard measure would be extended for three years. The United States is reviewing this action in light of Argentina's obligations under the WTO agreement on safeguard measures.
- **Brazil - Import Financing Measures.** On March 25, 1997, Brazil imposed new import financing rules that are adversely affecting a wide range of U.S. exports to Brazil. The measure, which requires importers to purchase foreign exchange to pay for imports upon importation or 180 days in advance rather than when payment is due under their contract, effectively increases the cost of many imports by eliminating or reducing supplier credits of less than one year. The United States is consulting with Brazil bilaterally and is reviewing the matter in light of Brazil's WTO obligations.
- **Taiwan - Market Access for Pharmaceuticals.** U.S. pharmaceutical companies are increasingly concerned about discriminatory aspects of Taiwan's reference pricing system for pharmaceuticals. This system, as applied by Taiwan's Bureau of National Health Insurance, appears to be

inconsistent with national treatment principles. Taiwan authorities have agreed to consultations on this problem in the near future.

Multilateral Priorities

Within the next three years the United States will participate in a number of major WTO negotiations in areas where we are a top global competitor. As a result of the Uruguay Round, the United States has a broad agenda in the WTO to pursue further negotiations and strengthen existing agreements. Among others, WTO negotiations are scheduled to open further the \$600 billion global *agriculture* market beginning in 1999; to further open the \$1.2 trillion global *services* market; and to review the Agreement on Trade-Related Intellectual Property Rights (TRIPs) which protects a variety of U.S. *intellectual property* right holders, including U.S. copyright holders whose foreign sales and exports exceed \$53 billion a year. Also included is the two-pronged agenda to negotiate improvements to the current reciprocal Agreement on Government Procurement and to conclude an agreement obligating all WTO members to maintain transparent procurement practices, thereby enabling U.S. companies to compete in the trillion-dollar global *government procurement* market. We will also review the WTO Dispute Settlement Understanding that has already enabled us to open many new markets in the last two years. As illustrated by most of the comments received from the public by USTR in preparing this report, *high tariffs* -- especially in the agricultural sector -- continue to block U.S. exports to a number of markets. Fast track procedures are essential if we are going to capitalize on the additional market opportunities presented by the WTO negotiations.

Our most immediate goal is to obtain significantly improved commitments from our trading partners that will allow us to conclude successfully the WTO *financial services* negotiations by the end of this year. These negotiations represent an important opportunity to reach a successful agreement that opens new opportunities for U.S. financial services providers in the key emerging markets around the world and furthers the integration of national financial systems needed for a more interconnected global economy in the 21st century.

Adding New Markets to the Rules-based Trading System. The United States continues to place high priority on ensuring that its trading partners accept the rule of law as it applies to trade -- ensuring that their trade and economic policies are consistent with international trade practices and norms, such as those of the WTO. A principal means of ensuring that new entrants into the international trading system accept the rule of law is through the negotiation of the terms and conditions of an applicant's WTO membership. New members must be prepared to implement WTO obligations and to grant commercially meaningful market access commitments and concessions, on both goods and services, as well as make specific commitments to limit agricultural subsidies. There are presently 29 applicants negotiating to become members of the WTO, including China, Russia, Taiwan, Ukraine, and Saudi Arabia.

Sectoral Priorities

The Administration will continue to ensure that U.S. industries that are competitive global leaders enjoy export success commensurate with their competitive position. In the last year we have taken major steps forward in advancing this goal with the Information Technology Agreement (ITA) and the Agreement on Basic Telecommunications. The ITA will reduce tariffs to zero in a \$500 billion global market in which the United States is the world's largest single exporter. The Agreement on Basic Telecommunications ensures that U.S. companies can compete against and invest in all existing carriers around the world. U.S. companies will now have access to markets accounting for over 95 percent of global telecommunications revenue and will be in the best position to take advantage of a \$600 billion industry that is expected to double or even triple in the next 10 years. The agreement provides U.S. companies market access for local, long-distance and international service and the ability to establish or hold a significant stake in telecommunications companies around the world. Sixty-five countries adopted procompetitive regulatory principles based on landmark U.S. legislation, the 1996 Telecommunications Act.

We are seeking to build on our success to pursue market-opening sectoral agreements in areas where the United States can capitalize further on its global competitive advantage if market access barriers are reduced, including in areas such as trade in chemicals, environmental technology and services, medical equipment and services, oilseeds and oilseed products, and wood and paper products. Fast track procedures are essential to ensure that the United States can continue to play the critical role in negotiations that reduce such barriers.

Regional Priorities

The *Asia Pacific region* contains the fastest growing economies in the world. Reaching the goal of open markets with the members of the Asia Pacific Economic Cooperation Forum (APEC) would increase U.S. global exports of goods alone by 13 percent or \$80 billion a year. As a step toward that goal, market opening agreements in key sectors would provide important new opportunities for U.S. exporters.

Latin America and the Caribbean are the fastest growing markets for U.S. merchandise exports. During the first six months of 1997, our exports to the region grew more than twice as fast as our exports to the rest of the world. At the recent meeting of the Trade Ministers of the nations participating in the Free Trade Area of the Americas (FTAA) in Belo Horizonte, Brazil, the Ministers agreed that FTAA negotiations should be launched at the Second Summit of the Americas in April 1998. The negotiations will address the full range of issues from tariff reductions to agriculture to structural issues such as intellectual property rights protection and government procurement. We remain fully committed to negotiating a comprehensive free trade agreement with Chile.

In addition, we are continuing intensive discussions with our partners in *Western Europe* to complete commercially significant sectoral market-enhancing commitments in the context of the Transatlantic agenda. The United States and the EU are participating in a joint study of high priority sectors where we can progressively eliminate or reduce barriers. In June 1997 the United States and the EU concluded negotiations on a mutual recognition agreement that facilitates U.S. exports to the EU in sectors such as telecommunications equipment, pharmaceuticals, and medical devices, by allowing U.S. manufacturers to have conformity assessment procedures, such as testing and inspection, conducted in the United States. This agreement will reduce costs for both manufacturers and regulators alike, and will help harmonize standards in certain sectors.

Finally, through President Clinton's "Partnership for Economic Growth and Opportunity in Africa" initiative, we seek to strengthen the process of economic and political reform and encourage the further opening of *African markets* and the maintenance of open markets through the assumption of increased WTO obligations. Increased African participation in the international trading system should benefit American and African exporters alike and lay the foundation for eventual free trade agreements between African countries and the United States.

Successfully Enforcing WTO Agreements

Early victories. The United States has won the first five cases that it has taken through the WTO dispute settlement panel process:

- **Japan - liquor taxes.** The United States -- joined by the EU and Canada -- successfully challenged a discriminatory Japanese tax scheme that placed high taxes on whisky, vodka, and other Western-style spirits, while applying low taxes to a traditional Japanese spirit (shochu). This was an important victory for the U.S. distilled spirits industry, whose exports to Japan have reached \$100 million per year even in spite of the heavy Japanese taxes. Japan has already enacted legislation that is a major step toward eliminating the problem. The excise taxes on whisky and other brown spirits are being dramatically reduced, starting in October 1997, and the excise tax on shochu will be increased. The result will be a drastic tax cut for our brown spirits exports.
- **Canada - restrictions on magazines.** The United States successfully challenged a recently enacted Canadian law that placed a high tax on American magazines containing advertisements directed at a Canadian audience. This tax, which was the latest in a series of Canadian government measures designed to protect the Canadian magazine industry from U.S. competition, was specifically calculated to put the Canadian edition of *Sports Illustrated*, published by the Canadian subsidiary of Time Warner, Inc., out of business. By ruling in favor of the United States, this case makes clear that WTO rules prevent governments from using 'culture' as a pretense for discriminating against imports.
- **EU - banana imports.** The United States joined Ecuador, Guatemala, Honduras, and Mexico in challenging an EU import program that gave French and British companies a big share of the banana distribution services business in Europe that U.S. companies had built up over the years. Ruling against the EU, the WTO panel and Appellate Body found that the EU banana import rules violated both the General Agreement on Trade in Services and the General Agreement on Trade in Goods by depriving U.S. banana distribution services companies and Latin American banana producers of a fair share of the EU market.
- **EU - hormone ban.** Both the United States and Canada challenged Europe's ban on the use of six hormones to promote the growth of cattle, and a WTO panel agreed that the EU has no scientific basis for blocking the sale of American beef in Europe. This is a sign that the WTO dispute settlement system can handle complex and difficult disputes where a WTO member attempts to justify trade barriers by thinly disguising them as health measures. The panel affirmed the need for food safety measures to be based on science, as they are in the United States. In addition to potentially affecting over \$100 million in U.S. beef exports annually, this ruling sets an important precedent that will act to protect other U.S. exporters from unscientific and unjustified trade barriers in the future.

- **India - patent law.** The United States recently obtained a panel ruling against India for failing to provide procedures for filing patent applications for pharmaceuticals and agricultural chemicals, as required by the WTO agreement on intellectual property protection. Besides serving notice that the United States expects all WTO members, including developing countries, to carry out their WTO obligations concerning intellectual property rights, this case also demonstrates that the WTO dispute settlement mechanism can play an important role in protecting American rights and interests in this field.

Significant settlements. The WTO agreements and the new dispute settlement rules are already paying dividends by helping us increase jobs and exports. The new dispute settlement rules often make it possible for us to enforce WTO agreements without ever having to reach a panel decision. The fact that the WTO can and will authorize us to retaliate pays off in earlier settlements opening markets for more of our exports. We have already used the WTO procedures to obtain favorable settlements in some important cases:

- **Korea - shelf-life requirements.** Consultations under WTO procedures resulted in a commitment by Korea to phase out its shelf-life restrictions on food products -- which removed a major barrier to US exports of beef, pork, poultry and frozen products.
- **EU - grains imports.** By demonstrating our resolve to refer the matter to a panel, we succeeded in pushing the EU to implement a settlement agreement on grains that benefits U.S. exports of rice and malting barley.
- **Japan - sound recordings.** In only a matter of months after we held WTO consultations, the Government of Japan amended its law to provide U.S. sound recordings with retroactive protection, as required by the WTO agreement on intellectual property rights.
- **Portugal - patent law.** After the United States requested WTO consultations, Portugal agreed to revise its patent law to provide a 20-year term to old, as well as new, patents, as required by the WTO agreement on intellectual property rights.
- **Pakistan - patent law.** After the United States requested the establishment of a WTO panel to enforce the WTO intellectual property rights agreement, Pakistan implemented the requirements of that agreement to provide procedures for filing patent applications and preserving exclusive marketing rights to protect pharmaceuticals and agricultural chemicals.
- **Turkey - film tax.** The United States has used the WTO dispute settlement process to convince the Government of Turkey to eliminate discriminatory tax treatment currently given to box office receipts from exhibition of foreign films. Turkey has agreed to change its practice.
- **Hungary - agricultural export subsidies.** The United States, joined by Argentina, Australia, Canada, New Zealand, Thailand, and Japan, used the WTO dispute settlement procedures to address Hungary's lack of compliance with its commitments on agricultural export subsidies. The result was a settlement agreement in which Hungary will have to cut its current export subsidy levels by more than 65%.